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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,307	12/29/2000	Jerry Dwight Doty II	2705-101	7831

20575 7590 02/27/2007  
MARGER JOHNSON & MCCOLLOM, P.C.  
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PORTLAND, OR 97204

EXAMINER
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LE, KAREN L

ART UNIT	PAPER NUMBER
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2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/753,307

Applicant(s)

DOTY ET AL.

Examiner

Karen L. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Applicant's amendment filed on December 13, 2006 has been entered. Claims 1, 9, 12 and 14 have been amended. No claims have been cancelled. No claims have been added. Claims 1-19 are still pending in this application, with claims 1, 9, 12 and 14 being independent. This action is final.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chong et al. (U. S. 6,205,557)

Regarding claims 1 and 9, Chong teaches a method and a computer-readable medium for switching active calls between entities (fig.3, server 140 and server 141 of database 103) on a network device (Fig. 2, item 103), the method comprising:

collecting information about a current call on the first processor while the current call is being processed by a first entity (Fig. 3, server 140 and col. 5, lines 7-16), initializing a second processor (Fig. 3, server 141) residing in the network device with the first processor (Col. 5, lines 22-23) with the information while the current call is being processed on the first processor, switching the current call from the first processor

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to the second processor; releasing the first processor from further processing of the call, and repeating the switching of call from the first processor until the first processor is free for maintenance (Col. 5, lines 18-19 and lines).

Chong does not teach determining that a time has been reached for an upgrade of firmware on a first processor that is still actively handling calls. However, Chong teaches determining that a first processor has failed (Col. 3, lines 11-14). The claimed method determines that a processor needs maintenance or repair. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention was made to use Chong's system to determine that an upgrade time has arrived. When the detection method in Chong is applied earlier (apply before the processor is failed) then all calls that are transferred will also include all active calls at the time the second server is being initialized. It is extremely old and well known in the art of telephony (and other arts) that when a unit needs upgrading, other unit(s) should "take over" any function(s) of the unit to be upgraded. For example, when a bookshelf is to be painted, books should be moved to another bookshelf. When a bus or a train needs to be serviced, passengers would have to be moved to another bus or train. Thus, in Chong, when active call server 140 fails (or to be upgraded/serviced), it would have been obvious to move/switch the active calls to server 141. The capability of doing so is clearly taught by Chong. Upgrading units of any system is also a well known feature. Thus, the "difference" between Chong and the claims does not rise to the level of patentability.

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Regarding claims 2-4 and 15-18, Chong teaches the processors are digital signal processors located within the same module, the processors are located in different modules located on the same card, and the processors are located on different cards in the network device (Fig.2, DB 103; Fig. 3, server 140 and 141; Fig. 4, processors 170 of 140 and 141).

Regarding claims 5 and 8, Chong does not teach the steps of copying compression dictionary tables from the first entity and loading compression tables in the second entity. However, to achieve a high data rate data compression has always been introduced. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to compress and decompress data while transmission to have larger volume of data. Chong does not teach the information about a current call includes country code. However, each country uses different carriers, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include type of country code to verify what type of carrier that country uses. The compression, decompression and including type of country code are old and well know in telecommunication system.

Regarding claim 6, Chong further teaches initializing a second processor further comprises initiating a retrain sequence on the second entity (Col. 5, lines 22-30).

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Regarding claim 7, Chong further teaches the information about a current call includes modulation (Col. 2, lines 43-44)

Regarding claims 10 and 11, Chong further teaches the computer-readable medium comprises a downloadable file and image file upload able into digital signal processor (Col. 6, lines 56-67).

Regarding claims 12 and 14, Chong further teaches a network device, comprising:  
at least two means for handling active calls residing in the network device (fig.3, item server 140 and server 141 of database 103 and Fig. 1, switching network 100),  
a means for connecting the means for handling active calls with means for transmitting phone calls (col. 5, lines 16-19);  
a means for switching active calls from a first processing means for handling active calls to another processing means for handling active calls without interruption, thereby eliminating any active calls on the first means for handling active calls and freeing the first processing means for maintenance (Col. 5, Lines 23-32 and Col. 1, Lines 5-10).

Chong does not teach a means for determining that a time has been reached for an upgrade to a first processing mean that is actively handling calls. However, Chong teaches determining that a first processor is failed (Col. 3, lines 11-14). The main purpose is the method of determine of a processor that needs to be maintenance or repair. It is more on the method of testing and determine than the maintenance or

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repair. Thus, It is obvious to one of skill in the art at the time of invention was made to use the chong's determined method to detect a processor that need to be fixed or maintenance. The detection method is well known and popular in telecommunication. When the detection method is applied earlier (apply before the processor is failed) then all calls that are transferred will also included all active calls at the time the second server is being initialized. If the detection method is applied earlier then the first processor would not be failed after transfer all calls to second processor then it would be obvious to one of the skill in the art at the time of the invention was made to release the processor and repeat the switching of calls from the first processor until the first processor is free for maintenance. It is so simple to understand that it is depend on when detection method is applied (before or after the processor is failed) to provide the maintenance or repairing.

Regarding claim 13, Chong further teaches the device of claim 10 wherein the controller is part of a processor located on one of the entities (Fig. 2, item 103).

Regarding claim 19, Chong further teaches the means for switching active calls further comprises a controller (Fig. 2, item 103).

### **Response to Arguments**

4. Applicant's arguments filed on December 13, 2006 have been fully considered but they are not persuasive.

Most of applicant's arguments have been addressed in the above rejection.

Applicant also argues that DB103 is not the entity that detects the processor failure in Chong and the determination of the failure is performed by the interface server 120. However, the interface server belongs to DB103 (see Fig. 3). In addition, DB103 can be a single network device (Col. 2, lines 36) or can be a distributed database network. A database is created to accommodate the need of the network. Thus, it will be created according to the need of the technology.

For the above reasons, Chong is maintained for supporting the enclosed Examiner's final office action.

### **Conclusion**

5. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

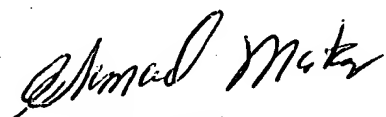
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen L. Le whose telephone number is 571-272-7487.

The examiner can normally be reached on Mon and Thurs: 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Karen Le  
KLL

February 20, 2007

  
AHMAD F. MATAR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2700

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